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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,080	03/09/2005	Rune Adolfsson	388.885USN	4747
33369 7590 05/27/2010 FASTH LAW OFFICES (ROLF FASTH) 26 PINECREST PLAZA, SUITE 2 SOUTHERN PINES, NC 28387-4301				
EXAMINER				
NGUYEN, HUONG Q				
ART UNIT		PAPER NUMBER		
3736				
NOTIFICATION DATE		DELIVERY MODE		
05/27/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/527,080

Applicant(s)

ADOLFSSON ET AL.

Examiner

HELEN NGUYEN

Art Unit

3736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-11.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736

Continuation of 3. NOTE: The amendments to the claims require a new search and consideration as introducing claim limitations not previously presented. It is noted that while the amendments place Claim 1 in condition for allowance, Claim 9 appears amenable to rejection under §103(a) over several references. Major (US Pat No. 4308013) which teaches a hand held sensor capable of being applied to the skin of a patient comprising an enlarged cooling segment 30 with protruding flange 34 made of material with high heat conductivity to increase heat transfer (Col.2: 34-37), peltier element 24, 26 with a cooled surface with testing surface 36 and heated surface, the heated surface being in contact with the enlarged cooling segment 30 to transfer the heat to another medium 44 (heat sink) and air (see flow 60) contained within the housing and is contact with the outwardly protruding flange 34 which forms a part of the enlarged cooling segment, best seen in Figure 2. Muller (US Pat No. 5830208) discloses a hand held sensor for the skin comprising outwardly protruding flanges 68 completely surrounding peltier element 20 for increased heat transfer, best seen in Figure 1. Ross (US Pat No. 6196839) also discloses a hand held sensor where gas from tube 35 is applied over outwardly protruding flanges 31 of enlarged cooling segment 27, both contained within housing 17, 19, and wherein the enlarged cooling segment with protruding flanges is in contact with heated surface 53 of peltier element 25. However, it is believed that said references may be overcome if applicant amends Claim 9 to recite:

A hand held sensor device applied to the skin of a patient comprising:

- a peltier element held by a holder attached to an outer end of a housing, the housing having an enlarged cooling segment with outwardly protruding flanges that completely surrounds the peltier element, the enlarged cooling segment being made of a material with a high heat conductivity to increase heat transfer, the enlarged cooling segment disposed outside of the housing;

- the peltier element being in contact with the housing and disposed on the outer end of the housing;

- the peltier element having a cooled surface and a heated surface, the peltier element being connected to a power source to obtain a temperature difference between the cooled surface and the heated surface thereof, the cooled surface being cooled by the peltier element and an inner surface being heated by the peltier element and directed in a direction that is opposite the direction of the cooled surface;

- the cooled surface providing a cooled testing surface, the heated surface being in contact with the enlarged cooling segment of the housing that has a high heat conductivity for effectively transferring heat from the heated surface to another medium for absorbing heat, the medium contained within a cavity of the enlarged cooling segment, the medium is in direct contact with the outwardly protruding flanges of the enlarged cooling segment;

- the holder being made from a material with a low heat conductivity, that is lower than the high heat conductivity of the enlarged cooling segment of the housing, to avoid heat transfer between the cooled surface and the heated surface(.), the cooled testing surface being applied to the skin of the patient.

Claim 1 would also once again be allowable if amended in the manner submitted by applicant on 5/6/2010 in accordance with suggestions outlined in the outstanding Final Action.